

IC 6-3.1-13

Chapter 13. Economic Development for a Growing Economy Tax Credit

IC 6-3.1-13-1

"Board" defined

Sec. 1. As used in this chapter, "board" means the economic development for a growing economy board established by this chapter.
As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-2a

"Credit amount" defined

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 2. As used in this chapter, "credit amount" means the amount agreed to between the board and applicant under this chapter, but not to exceed the incremental income tax withholdings attributable to the applicant's project.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-2b

"Credit amount" defined

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 2. As used in this chapter, "credit amount" means the amount agreed to between the board and applicant under this chapter, but not to exceed, in the case of a credit awarded for a project to create new jobs in Indiana, the incremental income tax withholdings attributable to the applicant's project.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.41.

IC 6-3.1-13-3

"Director" defined

Sec. 3. As used in this chapter, "director" means the director of the department of commerce.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-4

"Full-time employee" defined

Sec. 4. As used in this chapter, "full-time employee" means an individual who is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-5

"Incremental income tax withholdings" defined

Sec. 5. As used in this chapter, "incremental income tax withholdings" means the total amount withheld under IC 6-3-4-8 by the

taxpayer during the taxable year from the compensation of new employees.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-6

"New employee" defined

Sec. 6. (a) As used in this chapter, "new employee" means a full-time employee first employed by a taxpayer in the project that is the subject of a tax credit agreement and who is employed after the taxpayer enters into the tax credit agreement.

(b) The term "new employee" does not include:

- (1) an employee of the taxpayer who performs a job that was previously performed by another employee, if that job existed for at least six (6) months before hiring the new employee;
- (2) an employee of the taxpayer who was previously employed in Indiana by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement; or
- (3) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or an indirect ownership interest of at least five percent (5%) in the profits, capital, or value of the taxpayer (an ownership interest shall be determined in accordance with Section 1563 of the Internal Revenue Code and regulations prescribed under that Section).

(c) Notwithstanding subsection (b)(1), if a new employee performs a job that was previously performed by an employee who was:

- (1) treated under the agreement as a new employee; and
- (2) promoted by the taxpayer to another job;

the employee may be considered a new employee under the agreement.

(d) Notwithstanding subsection (a), the board may credit awards to an applicant that met the conditions of this chapter at the time of the applicant's location or expansion decision, if:

- (1) the applicant is in receipt of a letter from the department of commerce stating an intent to enter into a credit agreement; and
- (2) the letter described in subdivision (1) is issued by the department of commerce not later than March 15, 1994.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-7

"Pass through entity" defined

Sec. 7. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or
- (2) a partnership.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-8

"Related member" defined

Sec. 8. As used in this chapter, "related member" means a person that, with respect to the taxpayer during all or any portion of the taxable

year, is any one (1) of the following:

- (1) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the member of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock.
- (2) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnership, estate, trust, or corporation owns directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock.
- (3) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the taxpayer owns directly, indirectly, beneficially, or constructively at least fifty percent (50%) of the value of the corporation's outstanding stock.
- (4) A component member (as defined in Section 1563(b) of the Internal Revenue Code).
- (5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this subdivision, twenty percent (20%) shall be substituted for five percent (5%) wherever five percent (5%) appears in Section 1563(e) of the Internal Revenue Code.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-9a

"State tax liability" defined

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 9. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5-10 (the bank tax);
- (5) IC 6-5-11 (the savings and loan association tax);
- (6) IC 27-1-18-2 (the insurance premiums tax); and
- (7) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-9b

"State tax liability" defined

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 9. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax); and
- (3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

As added by P.L.41-1994, SEC.1. Amended by P.L.192-2002(ss), SEC.105.

IC 6-3.1-13-10

"Taxpayer" defined

Sec. 10. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax liability.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-11

Credit against state tax liability

Sec. 11. Subject to the conditions set forth in this chapter, a taxpayer is entitled to a credit against any state tax liability that may be imposed on the taxpayer for a taxable year after December 31, 1993, if the taxpayer is awarded a credit by the board under this chapter for that taxable year.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-12

Economic development for a growing economy board; establishment; members

Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

- (1) The director or, upon the director's designation, the executive director of the department of commerce.
- (2) The director of the budget agency.
- (3) The commissioner of the department of state revenue.
- (4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-13a

Foster job creation; credit awards

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 13. (a) The board may make credit awards under this chapter to foster job creation in Indiana.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-13b

Foster job creation and retention; years for which credit claimed

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 13. (a) The board may make credit awards under this chapter to foster job creation in Indiana or, as provided in section 15.5 of this chapter, job retention in Indiana.

(b) The credit shall be claimed for the taxable years specified in the taxpayer's tax credit agreement.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.42.

IC 6-3.1-13-14a

Agreement for tax credit; job creation; application form

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 14. A person that proposes a project to create new jobs in Indiana may apply to the board to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-14b

Application to enter into agreement for tax credit

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 14. A person that proposes a project to create new jobs in Indiana may apply, as provided in section 15 of this chapter, to the board to enter into an agreement for a tax credit under this chapter. A person that proposes to retain existing jobs in Indiana may apply, as provided in section 15.5 of this chapter, to the board to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.43.

IC 6-3.1-13-15a

Agreement for tax credit; conditions

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 15. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all of the following conditions exist:

- (1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.
- (2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.
- (3) There is at least one (1) other state that the applicant verifies

is being considered for the project.

(4) A significant disparity is identified, using best available data, in the projected costs for the applicant's project compared to the costs in the competing state, including the impact of the competing state's incentive programs. The competing state's incentive programs shall include state, local, private, and federal funds available.

(5) The political subdivisions affected by the project have committed significant local incentives with respect to the project.

(6) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(7) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(8) The credit is not prohibited by section 16 of this chapter.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-15b

Agreement for tax credit with respect to new job creation; conditions

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 15. This section applies to an application proposing a project to create new jobs in Indiana. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all of the following conditions exist:

(1) The applicant's project will create new jobs that were not jobs previously performed by employees of the applicant in Indiana.

(2) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment in Indiana and strengthening the economy of Indiana.

(3) The political subdivisions affected by the project have committed significant local incentives with respect to the project.

(4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not creating new jobs in Indiana.

(5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(6) The credit is not prohibited by section 16 of this chapter.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.44.

IC 6-3.1-13-15.5

Agreement for tax credit with respect to job retention; conditions

Effective 1-1-2003.

Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this

chapter if the board determines that all the following conditions exist:

- (1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.
- (2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.
- (3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.
- (4) The applicant is engaged in research and development, manufacturing, or business services (as defined in the Standard Industrial Classification Manual of the United States Office of Management and Budget).
- (5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%).
- (6) The applicant employs at least two hundred (200) employees in Indiana.
- (7) The applicant has prepared a plan for the use of the credits under this chapter for:
 - (A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or
 - (B) other direct business related investments, including but not limited to training.
- (8) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.
- (9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
- (10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.
- (11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar and fifty cents (\$1.50) of local incentives with respect to the retention of jobs for every three dollars (\$3) in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.
- (12) The credit is not prohibited by section 16 of this chapter.

As added by P.L.178-2002, SEC.45.

IC 6-3.1-13-16

Relocation of jobs from one site to another within state; credit

prohibited

Sec. 16. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the board.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-17a

Amount of credit awarded; factors

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 17. In determining the credit amount that should be awarded, the board shall take into consideration the following factors:

- (1) The economy of the county where the projected investment is to occur.
- (2) The potential impact on the economy of Indiana.
- (3) The magnitude of the cost differential between Indiana and the competing state.
- (4) The incremental payroll attributable to the project.
- (5) The capital investment attributable to the project.
- (6) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located.
- (7) The costs to Indiana and the affected political subdivisions with respect to the project.
- (8) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-17b

Amount of credit awarded; factors

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the board shall take into consideration the following factors:

- (1) The economy of the county where the projected investment is to occur.
- (2) The potential impact on the economy of Indiana.
- (3) The incremental payroll attributable to the project.
- (4) The capital investment attributable to the project.
- (5) The amount the average wage paid by the applicant exceeds the average wage paid within the county in which the project will be located.
- (6) The costs to Indiana and the affected political subdivisions with respect to the project.
- (7) The financial assistance that is otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the board shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to

retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the board shall consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.46.

IC 6-3.1-13-18a

Duration of tax credit; maximum credit

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 18. The board shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. The credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess shall be refunded to the taxpayer.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-18b

Duration of credit; maximum credit with respect to job creation; aggregate maximum with respect to job retention

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 18. (a) The board shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the incremental income tax withholdings attributable to the applicant's project and may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the incremental income tax withholdings. However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess shall be refunded to the taxpayer.

(b) For state fiscal years 2004 and 2005, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed five million dollars (\$5,000,000) per year.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.47.

IC 6-3.1-13-19a

Agreement for tax credit; requirements

Note: This version of section effective until 1-1-2003. See also following version of this section, effective 1-1-2003.

Sec. 19. The board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

- (1) A detailed description of the project that is the subject of the agreement.

- (2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
- (3) The credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit.
- (5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (6) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this chapter.
- (7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.
- (8) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.
- (9) Any other performance conditions that the board determines are appropriate.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-19b

Agreement for tax credit with respect to job creation; requirements

Note: This version of section effective 1-1-2003. See also preceding version of this section, effective until 1-1-2003.

Sec. 19. In the case of a credit awarded for a project to create new jobs in Indiana, the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The duration of the tax credit and the first taxable year for which the credit may be claimed.
- (3) The credit amount that will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.
- (5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.
- (6) A requirement that the taxpayer shall annually report to the

board the number of new employees who are performing jobs not previously performed by an employee, the new income tax revenue withheld in connection with the new employees, and any other information the director needs to perform the director's duties under this chapter.

(7) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the board determines are appropriate.

As added by P.L. 41-1994, SEC.1. Amended by P.L. 178-2002, SEC.48.

IC 6-3.1-13-19.5

Agreement for tax credit with respect to job retention; requirements

Effective 1-1-2003.

Sec. 19.5. (a) In the case of a credit awarded for a project to retain existing jobs in Indiana, the board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the business that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the applicant shall maintain operations at the project location for at least two (2) times the number of years as the term of the tax credit. An applicant is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A requirement that the applicant shall annually report the following to the board:

(A) The number of employees who are employed in Indiana by the applicant.

(B) The compensation (including benefits) paid to the applicant's employees in Indiana.

(C) The amount of the:

(i) facility improvements;

(ii) equipment and machinery upgrades, repairs, or retrofits;
or

(iii) other direct business related investments, including training.

(6) A requirement that the applicant shall provide written notification to the director and the board not more than thirty (30) days after the applicant makes or receives a proposal that would

transfer the applicant's state tax liability obligations to a successor taxpayer.

(7) A requirement that the chief executive officer of the company applying for a credit under this chapter must verify under penalty of perjury that the disparity between projected costs of the applicant's project in Indiana compared with the costs for the project in a competing site is real and actual.

(8) Any other performance conditions that the board determines are appropriate.

(b) An agreement between an applicant and the board must be submitted to the budget committee for review and must be approved by the budget agency before an applicant is awarded a credit under this chapter for a project to retain existing jobs in Indiana.

As added by P.L.178-2002, SEC.49.

IC 6-3.1-13-20

Certificate of verification; submission to department of state revenue; failure to submit copy

Sec. 20. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-21

Pass through entity; calculation of tax credit; shareholder or partner claiming credit

Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-22

Noncompliance with agreement; assessments

Sec. 22. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all of the provisions of this chapter the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the department of commerce of the noncompliance and request an assessment. The director shall state the amount of the assessment, which may not exceed the sum of any

previously allowed credits under this chapter. After receiving such a notice, the department of commerce shall make an assessment against the taxpayer under IC 6-8.1 for the amount stated in the director's notice.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-23

Annual report by director

Sec. 23. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report shall include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be delivered to the executive director of the legislative services agency for distribution to the members of the general assembly.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-24

Biennial evaluation by board

Sec. 24. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council, established under IC 4-3-14-4. The evaluation shall include an assessment of the effectiveness of the program in creating new jobs and retaining existing jobs in Indiana and of the revenue impact of the program, and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year.

As added by P.L.41-1994, SEC.1. Amended by P.L.178-2002, SEC.50.

IC 6-3.1-13-25

Rules adoption; fees

Sec. 25. The department of commerce may adopt rules under IC 4-22-2 necessary to implement this chapter. The rules may provide for recipients of tax credits under this chapter to be charged fees to cover administrative costs of the tax credit program. Fees collected shall be deposited in the economic development for a growing economy fund.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-26

Economic development for a growing economy fund; use; investments; appropriations

Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter,

including paying for the costs of administering this chapter. The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

As added by P.L.41-1994, SEC.1.

IC 6-3.1-13-27

Award of tax credit to nonprofit organization that is high growth company with high skilled jobs

Sec. 27. (a) Subject to all other requirements of this chapter, the board may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5) if:

- (1) the nonprofit organization:
 - (A) is a taxpayer (as defined in section 10 of this chapter); and
 - (B) meets all requirements of this chapter; and
- (2) all of the following conditions are satisfied:
 - (A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average county wage, as determined by the department of commerce, in the county where the project for which the credit is granted will be located.
 - (B) The organization must make an investment of at least fifty million dollars (\$50,000,000) in capital assets.
 - (C) The affected political subdivision must provide substantial financial assistance to the project.
 - (D) The incremental payroll attributable to the project must be at least ten million dollars (\$10,000,000) annually.
 - (E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.
 - (F) The organization does not receive any deductions from the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.
 - (G) The organization pays all of the organization's ad valorem property taxes to the taxing units in the taxing district in which the project is located.
 - (H) The project for which the credit is granted must be located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding section 6(a) of this chapter, the board may award credits to an organization under subsection (a) if:

- (1) the organization met all other conditions of this chapter at the time of the applicant's location or expansion decision;
- (2) the applicant is in receipt of a letter from the department of commerce stating an intent to pursue a credit agreement; and
- (3) the letter described in subdivision (2) is issued by the department of commerce not later than January 1, 2000.

As added by P.L.114-2000, SEC.1. Amended by P.L.170-2002, SEC.24.